

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated October 7, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-17 are pending in the Application. Claims 14-17 are added by this amendment. By means of the present amendment, claims 1-13 are amended including for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. Further amendments include correcting typographical errors, amending dependent claims to begin with "The", changing spelling from British to American spelling, as well as correcting certain informalities noted upon review of the claims. By these amendments, claims 1-13 are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

By means of the present amendment, the Abstract has been deleted and substituted with the enclosed New Abstract which better conforms to U.S. practice.

Applicant thanks the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, the specification is objected to because it is alleged that the Abstract of the disclosure, in effect, uses phrases which may be implied. It is respectfully submitted that the cancellation of the abstract herein and the substitution of a New Abstract which better conforms to U.S. practice renders this objection to the specification moot. Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Office Action, claim 2 is objected to due to a non-US spelling of the term "focusing". It is respectfully submitted that the amendment to the claims for better conformance to U.S. practice as discussed above renders this objection to claim 2 moot. Accordingly, withdrawal of the objection to claim 2 is respectfully requested.

Claims 8-9 and 10 are rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite. It is respectfully

submitted that the amendment to the claims for better conformance to U.S. practice as discussed above renders this rejection to claims 8-9 and 10 moot. Accordingly, it is respectfully submitted that claims 8-9 and 10 are in proper form and it is respectfully requested that this rejection under 35 U.S.C. §112, second paragraph, be withdrawn.

Claims 1-7 and 11-13 are rejected under 35 U.S.C. §102(b) over European Patent Publication No. EP 1154412 to Kono ("Kono"). Claim 10 is rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Kono in view of U.S. Patent Publication No. 2002/0101803 to Hayashi ("Hayashi"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-17 are allowable over Kono alone and in view of Hayashi for at least the following reasons.

Kono shows an optical disk device capable of preventing a signal from being incorrectly recorded on an other plane by a "focus monitor 16 [that] monitors an increase of an amplitude of a focus error signal issued by a focus error detector 7 and issues a light intensity reducing command signal to a light intensity controller 4 when the amplitude exceeds a specified reference." (See, FIG. 1, paragraph [0026], cited in the Office Action.)

In another embodiment, Kono shows a "reflected light quantity monitor 17 detects the quantity of a light reflected from the optical disk 1 and monitors a drop of the amplitude of the light. When the amplitude becomes smaller than a specified reference, the monitor 17 issues a light intensity reducing command signal to a light intensity controller 4." (See, FIG. 2, paragraph [0034].) Kono is clear that "[t]he monitor 17, upon judging that the quantity of light is lower than a specified reference th2, send the light intensity reducing command signal at a low level to the light intensity controller 4. Then, the light intensity controller 4 immediately lowers the light intensity to the reproducing level." (See, paragraph [0038].) Another embodiment of Kono shows a "layer move detector 19 detects, on the basis of the address data, that the data plane followed by the light beam moves to other layer and issues a light intensity reducing command signal to a light intensity controller 4." (See, paragraph [0040].)

Accordingly, Kono teaches that in response to any signal indicative of axial focus displacement event, the light intensity is reduced.

It is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Kono. For example,

Kono does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "determining if each of two or more axial focus displacement indicators indicate that an axial focus displacement event has occurred, otherwise determining that the axial focus displacement event has not occurred; and inhibiting the writing process in case of an axial focus displacement event occurrence" as recited in claim 1, and as similarly recited in claim 2. Hayashi is introduced for allegedly showing elements of a dependent claim and as such, does nothing to cure the deficiencies in Kono.

Further, it is respectfully submitted that the device of claim 14 is not anticipated or made obvious by the teachings of Kono. For example, Kono does not disclose or suggest, a device that amongst other patentable elements, comprises (illustrative emphasis added) "write inhibit means for inhibiting a writing process in case of an axial focus displacement event, wherein the write inhibit means is designed to monitor at least one input signal capable of indicating an axial focus displacement, to determine a speed with which said at least one input signal changes in time, and to decide that the input signal indicates that an axial focus

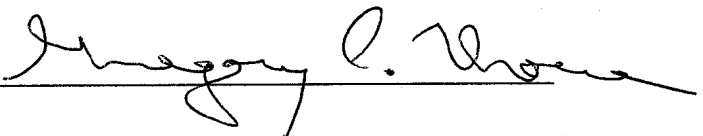
displacement event is about to occur on the basis of an evaluation of such changes" as recited in claim 14.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 2 and 14 are patentable over Kono alone and in view of Hayashi and notice to this effect is earnestly solicited. Claims 3-13 and 15-17 respectively depend from one of claims 2 and 14 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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January 7, 2009

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